
HOUSE BILL No. 1352

DIGEST OF INTRODUCED BILL

Citations Affected: IC 28-1-11-3.2; IC 28-5-1-6.3; IC 28-6.1-6-24; IC 28-7-1-9.2; IC 28-15-2-2.

Synopsis: Parity for state chartered financial institutions. Amends Indiana Code provisions allowing the following state chartered financial institutions to exercise, in certain circumstances, the same rights and privileges granted to nationally chartered institutions: (1) Banks. (2) Industrial loan and investment companies. (3) Savings banks. (4) Credit unions. (5) Savings associations. Allows the department of financial institutions (department) to deny, under certain circumstances, the rights and privileges requested by a state chartered institution. (Current law provides that the department may act through its members to deny the requested rights and privileges.) Adds the following to the circumstances justifying the department's denial of the requested rights and privileges: (1) A finding that the exercise of the rights and privileges would result in an unacceptable curtailment of consumer protection. (2) A finding that a denial of the rights and privileges will not result in a competitive disadvantage to the requesting institution. Provides that in deciding whether to grant the same rights and privileges to all state chartered institutions of the same type as the requesting institution, the department must ensure that the exercise of the rights and privileges by all institutions will not unduly constrain Indiana consumer protection provisions.

Effective: July 1, 2007.

Bardon

January 16, 2007, read first time and referred to Committee on Financial Institutions.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1352

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 28-1-11-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

(D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in other activities authorized for;

national banks domiciled in Indiana.

(b) A bank that intends to exercise any rights and privileges that are:

(1) granted to national banks; but

(2) not authorized for banks under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested

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rights and privileges granted to national banks that the bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the bank.

(c) The department shall promptly notify the requesting bank of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department ~~through its members~~, may ~~prohibit the bank from exercising~~ deny the requested rights and privileges ~~only~~ if the ~~members find~~ **department finds** that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges; ~~or~~

(2) the exercise of the requested rights and privileges by the bank would adversely affect the safety and soundness of the bank;

(3) the exercise of the requested rights and privileges by the bank would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the bank.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the bank may exercise the requested rights and privileges only if the bank receives prior written approval from the department. However:

(1) the ~~members~~ **department** must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the bank's letter; and

(2) if a hearing is convened, the ~~members~~ **department** must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) ~~Whenever, in compliance with this section, If a bank exercises~~ **receives approval to exercise the requested** rights and privileges

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1 granted to national banks domiciled in Indiana, **the department shall**
 2 **determine whether** all banks may exercise the same rights and
 3 privileges. **if In making the determination required by this**
 4 **subsection,** the department ~~by order determines~~ **must ensure** that the
 5 exercise of the rights and privileges by all banks ~~would~~ **will** not:

6 (1) adversely affect their safety and soundness; **or**

7 (2) **unduly constrain Indiana consumer protection provisions.**

8 (h) If the department denies the request of a bank under this section
 9 to exercise any rights and privileges that are granted to national banks,
 10 the bank may appeal the decision of the department to the circuit court
 11 with jurisdiction in the county in which the principal office of the bank
 12 is located. In an appeal under this section, the court shall determine the
 13 matter de novo.

14 SECTION 2. IC 28-5-1-6.3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6.3 (a) As used in this
 16 section, "rights and privileges" means the power to:

17 (1) create;

18 (2) deliver;

19 (3) acquire; or

20 (4) sell;

21 a product, a service, or an investment that is available to or offered by
 22 national banks domiciled in Indiana.

23 (b) An industrial loan and investment company that intends to
 24 exercise any rights and privileges that are:

25 (1) granted to national banks; but

26 (2) not authorized for industrial loan and investment companies
 27 under the Indiana Code (except for this section) or any rule
 28 adopted under the Indiana Code;

29 shall submit a letter to the department describing in detail the requested
 30 rights and privileges granted to national banks that the company
 31 intends to exercise. If available, copies of relevant federal law,
 32 regulations, and interpretive letters must be attached to the letter
 33 submitted by the company.

34 (c) The department shall promptly notify the requesting company of
 35 the department's receipt of the letter submitted under subsection (b).
 36 Except as provided in subsection (e), the company may exercise the
 37 requested rights and privileges sixty (60) days after the date on which
 38 the department receives the letter unless otherwise notified by the
 39 department.

40 (d) The department ~~through its members;~~ may prohibit the company
 41 ~~from exercising~~ **deny** the requested rights and privileges ~~only~~ if the
 42 ~~members find~~ **department finds** that:

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(1) national banks domiciled in Indiana do not possess the requested rights and privileges; ~~or~~

(2) the exercise of the requested rights and privileges by the company would adversely affect the safety and soundness of the company;

(3) the exercise of the requested rights and privileges by the company would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the company.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the company's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the company may exercise the requested rights and privileges only if the company receives prior written approval from the department. However:

(1) the ~~members~~ **department** must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the company's letter; and

(2) if a hearing is convened, the ~~members~~ **department** must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a company in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) ~~Whenever, in compliance with this section, If a company exercises receives approval to exercise the requested~~ rights and privileges granted to national banks domiciled in Indiana, **the department shall determine whether** all industrial loan and investment companies may exercise the same rights and privileges. **if In making the determination required by this subsection, the department by order determines must ensure** that the exercise of the rights and privileges by all industrial loan and investment companies ~~would will~~ not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a company under this

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section to exercise any rights and privileges that are granted to national banks, the company may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the company is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 3. IC 28-6.1-6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) As used in this section, "rights and privileges" means the power to:

- (1) create;
- (2) deliver;
- (3) acquire; or
- (4) sell;

a product, a service, or an investment that is available to or offered by national banks domiciled in Indiana.

(b) Subject to the conditions set forth in this section, a savings bank may exercise the rights and privileges that are or may be granted to national banks domiciled in Indiana.

(c) A savings bank that intends to exercise any rights and privileges that are:

- (1) granted to national banks; but
- (2) not authorized for a savings bank under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the savings bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the company.

(d) The department shall promptly notify the requesting savings bank of the department's receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department ~~through its members~~, may ~~prohibit the savings bank from exercising~~ **deny** the requested rights and privileges ~~only if the members find~~ **department finds** that:

- (1) national banks domiciled in Indiana do not possess the requested rights and privileges; ~~or~~
- (2) the exercise of the requested rights and privileges by the savings bank would adversely affect the safety and soundness of the savings bank;

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(3) the exercise of the requested rights and privileges by the savings bank would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the savings bank.

(f) The sixty (60) day period referred to in subsection ~~(c)~~ (d) may be extended by the department based on a determination that the savings bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings bank may exercise the requested rights and privileges only if the savings bank receives prior written approval from the department. However:

(1) the ~~members~~ department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the savings bank's letter; and

(2) if a hearing is convened, the ~~members~~ department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

~~(h) Whenever, in compliance with this section, If a savings bank exercises receives approval to exercise the requested rights and privileges granted to national banks domiciled in Indiana, the department shall determine whether all savings banks may exercise the same rights and privileges. if In making the determination required by this subsection, the department by order determines must ensure that the exercise of the rights and privileges by all savings banks would will not:~~

~~(1) adversely affect their safety and soundness; or~~

~~(2) unduly constrain Indiana consumer protection provisions.~~

(i) If the department denies the request of a savings bank under this section to exercise any rights and privileges that are granted to national banks, the savings bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings bank is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 4. IC 28-7-1-9.2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

(D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in other activities authorized for;

federal credit unions domiciled in Indiana.

(b) A credit union that intends to exercise any rights and privileges that are:

(1) granted to federal credit unions; but

(2) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to federal credit unions that the credit union intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the credit union.

(c) The department shall promptly notify the requesting credit union of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the credit union may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department ~~through its members;~~ may ~~prohibit the credit union from exercising~~ **deny** the requested rights and privileges ~~only if the members find~~ **department finds** that:

(1) federal credit unions domiciled in Indiana do not possess the requested rights and privileges; ~~or~~

(2) the exercise of the requested rights and privileges by the credit union would adversely affect the safety and soundness of the credit union;

(3) the exercise of the requested rights and privileges by the credit union would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the credit union.

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(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the credit union's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the credit union may exercise the requested rights and privileges only if the credit union receives prior written approval from the department. However:

(1) the **members department** must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the credit union's letter; and

(2) if a hearing is convened, the **members department** must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a credit union in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) ~~Whenever, in compliance with this section, If a credit union exercises receives approval to exercise the requested~~ rights and privileges granted to federal credit unions domiciled in Indiana, **the department shall determine whether** all credit unions may exercise the same rights and privileges. **if In making the determination required by this subsection,** the department ~~by order determines must ensure~~ that the exercise of the rights and privileges by all credit unions ~~would will~~ not:

(1) adversely affect their safety and soundness; or

(2) **unduly constrain Indiana consumer protection provisions.**

(h) If the department denies the request of a credit union under this section to exercise any rights and privileges that are granted to federal credit unions, the credit union may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the credit union is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 5. IC 28-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

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- 1 (D) sell;
 2 a product, a service, or an investment that is available to or
 3 offered by; or
 4 (2) to engage in other activities authorized for;
 5 federal savings associations domiciled in Indiana.
- 6 (b) Subject to this section, savings associations may exercise the
 7 rights and privileges that are granted to federal savings associations.
- 8 (c) A savings association that intends to exercise any rights and
 9 privileges that are:
 10 (1) granted to federal savings associations; but
 11 (2) not authorized for savings associations under:
 12 (A) the Indiana Code (except for this section); or
 13 (B) a rule adopted under IC 4-22-2;
 14 shall submit a letter to the department, describing in detail the
 15 requested rights and privileges granted to federal savings associations
 16 that the savings association intends to exercise. If available, copies of
 17 relevant federal law, regulations, and interpretive letters must be
 18 attached to the letter.
- 19 (d) The department shall promptly notify the requesting savings
 20 association of its receipt of the letter submitted under subsection (c).
 21 Except as provided in subsection (f), the savings association may
 22 exercise the requested rights and privileges sixty (60) days after the
 23 date on which the department receives the letter unless otherwise
 24 notified by the department.
- 25 (e) The department ~~through its members~~, may ~~prohibit the savings~~
 26 ~~association from exercising~~ **deny** the requested rights and privileges
 27 ~~only if the members find~~ **department finds** that:
 28 (1) federal savings associations in Indiana do not possess the
 29 requested rights and privileges; ~~or~~
 30 (2) the exercise of the requested rights and privileges by the
 31 savings association would adversely affect the safety and
 32 soundness of the savings association;
 33 **(3) the exercise of the requested rights and privileges by the**
 34 **savings association would result in an unacceptable**
 35 **curtailment of consumer protection; or**
 36 **(4) the failure of the department to approve the requested**
 37 **rights and privileges will not result in a competitive**
 38 **disadvantage to the savings association.**
- 39 (f) The sixty (60) day period referred to in subsection (d) may be
 40 extended by the department based on a determination that the savings
 41 association letter raises issues requiring additional information or
 42 additional time for analysis. If the sixty (60) day period is extended

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under this subsection, the savings association may exercise the requested rights and privileges only if the savings association receives prior written approval from the department. However:

(1) the ~~members~~ **department** must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the savings association's letter; and

(2) if a hearing is convened, the ~~members~~ **department** must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings association in compliance with and in the manner authorized by this section does not constitute a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) ~~Whenever, in compliance with this section, If~~ a savings association ~~exercises receives approval to exercise the requested~~ rights and privileges granted to national savings associations domiciled in Indiana, ~~the department shall determine whether~~ all savings associations may exercise the same rights and privileges. ~~if In making the determination required by this subsection,~~ the department ~~by order determines must ensure~~ that the exercise of the rights and privileges by all savings associations ~~would will~~ not:

(1) adversely affect their safety and soundness; or

(2) **unduly constrain Indiana consumer protection provisions.**

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